

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THE GENERAL HOSPITAL CORPORATION
and DANA-FARBER CANCER INSTITUTE, INC.,
Plaintiffs,

v.

Civil Action No. 1:18-cv-11360-IT

ESOTERIX GENETIC LABORATORIES, LLC,
and LABORATORY CORPORATION OF
AMERICA HOLDINGS,

Defendants.

NOTICE OF SCHEDULING CONFERENCE

June 28, 2022

In accordance with Fed. R. Civ. P. 16(b) and Local Rules 16.1 (as modified by this order), **an initial scheduling conference will be held on July 22, 2022, at 3:15 p.m.** Because of the Coronavirus public health emergency, the scheduling conference will be held by video or may be cancelled if the court determines a Scheduling Conference is not necessary.

Counsel for the plaintiff(s) is responsible for ensuring that all parties and/or their attorneys who have not filed an answer or appearance with the court are notified of the date of the scheduling conference.

The court expects compliance with sections (b), (c), and (d) of L.R. 16.1¹ as modified below:

1. **Scheduling Order:** In most cases, the court will issue a scheduling order **in the form of the template attached hereto.** The court may depart from the form in cases of relative complexity or simplicity or otherwise if justice so requires. The

parties should attempt to agree on the relevant dates for discovery and motion practice. In a case of ordinary complexity, the parties should propose a schedule that calls for the completion of fact discovery, expert discovery, and motion practice less than one calendar year from the date of the scheduling conference. The dates of the status conference and pretrial conference will be set by the court. When filing the Joint Statement, counsel should submit a proposed scheduling order using the attached template.

2. **Settlement Proposals:** Each defendant shall present to the plaintiff(s) a written response to the plaintiff(s)' settlement proposal(s) no later than seven days prior to the scheduling conference.
3. **Initial Disclosures:** In addition to the information required by L.R. 26.2, initial disclosures shall include:
 - a. The name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information; and,
 - b. A copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party relevant to disputed facts alleged with particularity in the pleadings.
4. **Joint Statement:** The parties' joint statement shall contain the information set forth at L.R. 16.1(d). In addition, the joint statement shall list all pending motions and shall also identify any matters that need to be discussed at the scheduling conference. If no matters are so identified, the court is likely to issue a Scheduling Order based on the parties' Joint Statement and cancel the scheduling conference.
5. **Reassignment to a Magistrate Judge:** The parties' joint statement shall indicate whether all parties consent to reassignment of the case to a magistrate judge for all purposes. If all parties consent, the parties should also jointly file a completed

"Consent/Refusal of Magistrate Judge Jurisdiction" form available at
<http://www.mad.uscourts.gov/resources/forms-local.htm>.

6. Proposed Orders: Any proposed orders, such as Proposed Protective Orders, shall be docketed separately as an exhibit to a Motion for Proposed Order.

Indira Talwani
United States District Judge

By: /s/Gail A. MacDonald Marchione
Courtroom Deputy Clerk

Date: June 28, 2022

¹ These sections of Local Rule 16.1 provide:

(b) Obligation of Counsel to Confer. Unless otherwise ordered by the judge, counsel for the parties must, pursuant to Fed. R. Civ. P. 26(f), confer at least 21 days before the date

for the scheduling conference for the purpose of:

- (1) preparing an agenda of matters to be discussed at the scheduling conference,
- (2) preparing a proposed pretrial schedule for the case that includes a plan for discovery, and
- (3) considering whether they will consent to trial by magistrate judge.

(c) Settlement Proposals. Unless otherwise ordered by the judge, the plaintiff shall present written settlement proposals to all defendants no later than 14 days before the date for the scheduling conference. Defense counsel shall have conferred with their clients on the subject of settlement before the scheduling conference and be prepared to respond to the proposals at the scheduling conference.

(d) Joint Statement. Unless otherwise ordered by the judge, the parties are required to file, no later than seven (7) days before the scheduling conference and after consideration of the topics contemplated by Fed. R. Civ. P. 16(b) & (c) and 26(f), a joint statement containing a proposed pretrial schedule, which shall include:

(1) a joint discovery plan scheduling the time and length for all discovery events, that shall

(a) conform to the obligation to limit discovery set forth in Fed. R. Civ. P. 26(b), and

(b) take into account the desirability of conducting phased discovery in which the first phase is limited to developing information needed for a realistic assessment of the case and, if the case does not terminate, the second phase is directed at information needed to prepare for trial; and

(2) a proposed schedule for the filing of motions; and

(3) certifications signed by counsel and by an authorized representative of each party affirming that each party and that party's counsel have conferred:

(a) with a view to establishing a budget for the costs of conducting the full course—and various alternative courses—of the litigation; and

(b) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in LR 16.4.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____, *
*
Plaintiff(s), *
*
v. * Civil Action No. _____
*
_____, *
*
*
Defendant(s). *

[PROPOSED] SCHEDULING ORDER

TALWANI, D.J.

This scheduling order is intended to provide a reasonable timetable for discovery and motion practice in order to help ensure a fair and just resolution of this matter without undue expense or delay.

TIMETABLE FOR DISCOVERY AND MOTION PRACTICE

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and Local Rule 16.1(f), it is hereby ORDERED that:

1. **Initial Disclosures.** Initial disclosures required by Fed. R. Civ. P. 26(a)(1) and by this court's Notice of Scheduling Conference must be completed by _____.
2. **Amendments to Pleadings.** Except for good cause shown, no motions seeking leave to add new parties or to amend the pleadings to assert new claims or defenses may be filed after _____.
3. **Fact Discovery.**
 - a. All requests for production of documents and interrogatories must be served by _____.
 - b. All requests for admission must be served by _____.
 - c. All depositions, other than expert depositions, must be completed by _____.
 - d. All discovery, other than expert discovery, must be completed by _____.

4. **Obligation to Supplement.** Supplemental disclosures under Fed. R. Civ. P. 26(e) shall be made promptly after the receipt of information by the party or counsel and, in any event, no later than the completion of fact discovery, unless good reason can be shown for why such information was not available.
5. **Close of Fact Discovery Status Conference.** A status conference will be held on _____ at ____ a.m./p.m [to be completed by the court].
6. **Expert Discovery.**
 - a. Plaintiff(s)' trial expert(s) must be designated and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by _____.
 - b. Defendant(s)' trial experts must be designated and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by _____.
 - c. Trial experts must be deposed by _____.
7. **Dispositive Motions.** Dispositive motions, such as motions for summary judgment or partial summary judgment and motions for judgment on the pleadings, must be filed by _____.

PROCEDURAL PROVISIONS

8. **Extension of Deadlines.** All requests to extend or modify deadlines must be made by motion and must state: (1) the original date(s); (2) the number of previous requests for adjournment or extension; (3) whether these previous requests were granted or denied; (4) the reasons for the requested extension; and (5) whether the opposing party consents and, if not, the reasons given for refusing to consent. The motion shall also contain a summary of the discovery, if any, that remains to be taken, and a specific date when the requesting party expects to complete the additional discovery, join other parties, amend the pleadings, or file a motion. Motions to extend or modify deadlines will be granted only for good cause shown.

If the requested extension or modification affects any other scheduled dates, a represented party must submit a proposed revised scheduling order using this template. (A *pro se* party may, but is not required to, submit a proposed revised scheduling order.)

Absent an emergency, any request for an extension or adjournment shall be made at least forty-eight hours prior to the deadline or scheduled appearance.

9. **Motions to Compel or Prevent Discovery.** Except for good cause shown, motions to compel discovery, motions for protective orders, motions to quash, motions to strike discovery responses, and similar motions must be filed no later than seven days after the close of fact discovery or the close of expert discovery, whichever deadline is relevant. If additional discovery is compelled by the court after the relevant deadline

has passed, the court may enter such additional orders relating to discovery as may be appropriate.

10. **Status Conferences.** The court will schedule a status conference after (or close to) the close of fact discovery for case management purposes. Any party who reasonably believes that an additional status conference will assist in the management or resolution of the case may request one from the court upon reasonable notice to opposing counsel.
11. **Additional Conferences.** Upon request of counsel, or at the court's own initiative, additional case-management or status conferences may be scheduled.
12. **Early Resolution of Issues.** The court recognizes that, in some cases, early resolution of one or more preliminary issues may remove a significant impediment to settlement or otherwise expedite resolution of the case. Counsel are encouraged to confer and jointly advise the court of any such issues.
13. **Pretrial Conference.** Lead trial counsel are required to attend any pretrial conference.
14. **Discovery Disputes.** Counsel encountering a discovery dispute are encouraged to request a conference with the court before filing a discovery motion. Counsel who opt to file a discovery motion shall comply with the court's Standing Order on Discovery Disputes.

EXAMPLE 2022

United States District Judge